

# AUSTIN, LEWIS & ROGERS, P.A.

ATTORNEYS AND COUNSELORS AT LAW

WILLIAM F. AUSTIN  
E. CROSBY LEWIS  
TIMOTHY F. ROGERS  
RAYMON E. LARK, JR.  
RICHARD L. WHITT  
JEFFERSON D. GRIFFITH, III\*  
EDWARD L. EUBANKS  
W. MICHAEL DUNCAN  
KELLY H. RAINSFORD  
WILLIAM B. BRYANT

CONGAREE BUILDING  
508 HAMPTON STREET, SUITE 300  
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 256-4000 FACSIMILE: (803) 252-3679

DANIEL S. LEWIS  
(1940-1981)

\*ALSO MEMBER  
NORTH CAROLINA BAR

November 15, 2004

## VIA HAND DELIVERY

The Honorable George N. Dorn, Jr.  
Interim Executive Director  
The Public Service Commission of South Carolina  
101 Executive Center Drive, Suite 100  
Columbia, South Carolina 29210

RE: Duke Power, a Division of Duke Energy Corporation ("Duke")  
Motion to Continue Fuel Factor and Alter Hearing Schedule

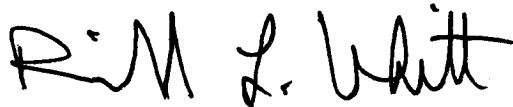
Dear Mr. Dorn,

Enclosed please find an original and ten copies of Duke's Motion referenced hereinabove.

The Acting Consumer Advocate for the State of South Carolina and appropriate personnel of the Office of Regulatory Staff have been served with this Motion, as indicated by the enclosed Certificate of Service.

Sincerely,

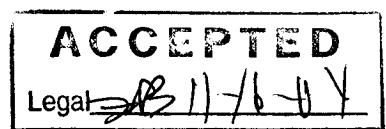
AUSTIN, LEWIS & ROGERS, P.A.



William F. Austin  
Richard L. Whitt

RLW/rdd  
Enclosure  
cc: see attached Certificate of Service

508 HAMPTON STREET, SUITE 300  
COLUMBIA, SC 29201  
2004 NOV 15 PM 4:28  
PSC-100



171978 DMS

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2004-324-E

RECEIVED  
NOV 15 PM 4:28  
SOUTH CAROLINA  
PUBLIC SERVICE COMMISSION

IN RE:

Duke Power, Annual Review  
of Base Rates for Fuel Costs

)  
)  
)

**MOTION TO CONTINUE FUEL FACTOR  
AND  
ALTER HEARING SCHEDULE**

### INTRODUCTION

Pursuant to Rule R. 103-840 and other applicable Rules of the Public Service Commission of South Carolina's ("PSC or Commission") Rules of Practice and Procedure, and other applicable Regulations and Statutes, the Movant, Duke Power ("Duke"), a division of Duke Energy Corporation, by and through its undersigned attorneys, makes this Motion to (i) Continue its Fuel Factor, as presently approved by this Commission, until next year; (ii) alter the present hearing schedule utilized by this Commission for incumbent electric utilities in this Commission's annual review of base rates for fuel costs. Section 58-27-865, of the South Carolina Code Annotated (1976, as amended) is applicable (hereinafter, "Fuel Statute"). Under the Fuel Statute, this Commission conducts annual hearings and sets an appropriate fuel factor to allow the incumbent electric utilities to recover their allowable fuel costs for the applicable period. Under §58-27-870 (F) of the South Carolina Code Annotated (1976, as amended), this Commission may grant the relief requested. Specifically, the relief sought by Duke in this motion does not require a determination of Duke's entire rate structure and overall rate of return and the

proposed continuation of the presently approved fuel factor does not result in any rate increase to Duke. Furthermore, Duke's motion, when granted, would necessarily result in this Commission's orderly rate administration. Therefore, the relief sought in Duke's motion is not inconsistent with the fuel statute and is expressly permitted by §58-27-870 (F). Duke hereby serves (1) one copy of this Motion to Continue Fuel Factor and Alter Hearing Schedule ("Motion") upon the Consumer Advocate for the State of South Carolina (hereinafter "The Consumer Advocate") and files the original and (10) ten copies of its Motion with the Honorable George N. Dorn, Jr., Interim Executive Director of the Commission.

### **PROCEDURAL HISTORY**<sup>1</sup>

This Commission issued its Order No. 2004-274, on October 14, 2004, in Docket Number 2004-3-E, established Duke's fuel factor for the period June 2004 through May, 2005 at 1.150 cents per kWh, the same level as its fuel factor approved in 2003.

Accordingly, this Commission's annual schedule of hearing dates for the three incumbent utilities would make Movant's next fuel hearing scheduled in the spring of 2005. In fact, all three incumbent electric utilities presently have their annual fuel hearings scheduled in close proximity to each other in the spring of each year.

The present schedule requires this Commission to make a decision on each incumbent electric utility's fuel factor shortly before the end of the calendar month. This has required the Commission's staff to work expeditiously to put the electric utilities' fuel factor into effect on the first day of the following calendar month.

The traditional schedule has caused a hardship on the Commissioners, Commission staff, and the incumbent electric utilities. In recognition of this, the Commission's staff held

---

<sup>1</sup> All Orders and documents referenced are on file with this Commission and are incorporated herein by reference as if set forth herein verbatim.

consultations in the spring of 2004, with representatives of South Carolina Electric and Gas Company, Progress Energy Carolinas, Inc. and Duke.

As a result of these consultations, the Commission's staff and representatives of all three electric utilities agreed on a schedule that would "stagger" the dates of the hearings of this Commission to set the annual fuel factor for each incumbent electric utility. By agreement of the participants, Duke will have its annual fuel hearing scheduled before this Commission on or about, the last Wednesday in August 2005, with an effective date for the annual fuel factor of October 1, 2005. Duke's motion follows.

### **MOTION**

Duke moves this Commission:

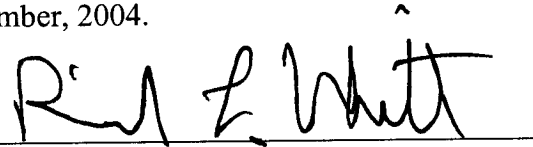
1. To continue recovery of its fuel costs with its current fuel factor, 1.150 cents per kWh, as presently approved by this Commission, from June 1, 2005 until October 1, 2005.
2. (A) To establish a new test year for Duke's annual fuel proceeding of July through June;  
(B) Additionally, due to the transition from the present hearing schedule to the proposed hearing schedule, for only Duke's 2005 fuel case, the months of April 2004 through June 2004 will be included in the test period.
3. To set Duke's 2005 fuel case to be heard on or about the last Wednesday in August 2005, with an effective date for the annual fuel factor of October 1, 2005.
4. To issue, in accordance with the Commission's traditional pre-filing schedule, an order requiring Movant's testimony and exhibits to be due four weeks prior to the hearing date and Commission Staff's/Intervenor's testimony to be due two weeks prior to the hearing date.

5. To provide such other and further relief as this Commission may deem just and proper.

**CONCLUSION**

Based on the foregoing, Duke moves this Commission (i) to allow Duke to continue its presently approved fuel factor, 1.150 cents per kWh, from June 1, 2005 until October 1, 2005 and (ii) to alter the present Commission schedule for hearings to review the incumbent electric utilities' base rates for fuel costs by scheduling Duke's next fuel hearing to be held in the month of August 2005.

Respectfully submitted this 15th day of November, 2004.



William Frederick Austin  
Richard L. Whitt  
AUSTIN, LEWIS & ROGERS, P.A.  
508 Hampton Street, Third Floor  
Columbia, South Carolina 28201  
Telephone: (803) 256-4000

Kodwo Ghartey-Tagoe,  
Chief Regulatory Counsel  
Lara Simmons Nichols,  
Assistant General Counsel  
DUKE POWER, a division of  
DUKE ENERGY CORPORATION  
Post Office Box 1244, PBO5E  
Charlotte, North Carolina 28201-1244  
Telephone: (704) 382-4295

ATTORNEYS FOR  
DUKE POWER, a division of  
DUKE ENERGY CORPORATION

Columbia, South Carolina

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**

**DOCKET NO.**

IN RE:

Duke Power, Annual Review  
of Base Rates for Fuel Costs

)  
)  
)

**CERTIFICATE OF SERVICE**

I, the undersigned, an employee of Austin, Lewis and Rogers, P.A., attorneys for Duke Power, a division of Duke Energy Corporation ("Duke"), do hereby certify that I have served the foregoing **MOTION TO CONTINUE FUEL FACTOR AND ALTER HEARING SCHEDULE** by hand delivery as set forth below:

**VIA HAND DELIVERY**


Elliot F. Elam, Jr.  
Acting Consumer Advocate  
for the state of South Carolina  
3600 Forest Drive, 3rd Floor  
Columbia, SC 29250

**VIA HAND DELIVERY**

Florence P. Belser, Esquire  
General Counsel  
John W. Flitter  
Director of Electric and Gas Regulation  
Office of Regulatory Staff.  
Third Floor, 1441 Main Street  
Columbia, South Carolina 29201

**VIA HAND DELIVERY**

F. David Butler, Esquire  
Randy Watts  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
101 Executive Center Drive  
Columbia, South Carolina 29211

  
\_\_\_\_\_  
Rita D. DeCarlis

November 15, 2004